

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

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EDWARD CARTER, FRANK FIORILLO, KEVIN  
LAMM, JOSEPH NOFI AND THOMAS SNYDER,

Case No.:  
07 CV 1215 (SJF) (ETB)

Plaintiffs,

-against-

INCORPORATED VILLAGE OF OCEAN BEACH;  
MAYOR JOSEPH C. LOEFFLER, JR., individually and  
in his official capacity; former mayor NATALIE K.  
ROGERS, individually and in her official capacity,  
OCEAN BEACH POLICE DEPARTMENT; ACTING  
DEPUTY POLICE CHIEF GEORGE B. HESSE,  
individually and in his official capacity; SUFFOLK  
COUNTY; SUFFOLK COUNTY POLICE  
DEPARTMENT; SUFFOLK COUNTY  
DEPARTMENT OF CIVIL SERVICE; and ALISON  
SANCHEZ, individually and in her official capacity,

Defendants.  
----- X

**DECLARATION OF JAMES M. SKELLY**  
**IN SUPPORT OF DEFENDANT'S MOTION FOR SUMMARY JUDGMENT**

James M. Skelly, Esq., declares pursuant to the provisions of 28 U.S.C. §1746, as follows:

1. I am one of the attorneys for defendant Acting Deputy Police Chief George B. Hesse in this matter. I make this declaration in support of defendant Acting Deputy Police Chief George B. Hesse's Motion for Summary Judgment.

2. The purpose of the Declaration is to identify the materials being submitted in support of defendant's motion, which materials are referred to and discussed in defendant's Rule 56.1 Statement, and to attest to the authenticity and correctness of the copies of documents being submitted as exhibits. The exhibits consist of essentially five types of documents: (i) transcripts

of depositions taken in this action; (ii) documents marked as exhibits at those depositions, (iii) defendant's discovery responses; and (iv) other documents. I have personal knowledge of the documents and underlying facts surrounding said documents as stated herein and could competently testify thereto if called as a witness herein.

3. Attached hereto and incorporated herein as **Exhibit A** is a true and correct copy of the Summons and Verified Complaint filed on March 21, 2007.

4. Attached hereto and incorporated herein as **Exhibit B** is a true and correct copy of the Answer of Defendants, Suffolk County, Suffolk County Police Department, Suffolk County Department of Social Service and Alison Sanchez filed on May 9, 2007.

5. Attached hereto and incorporated herein as **Exhibit C** is a true and correct copy of the Answer of Defendants, Incorporated Village of Ocean Beach, Mayor Joseph C. Loeffler, Jr., individually and in his official capacity, former mayor Natalie K. Rogers, individually and in her official capacity, Ocean Beach Police Department and Acting Deputy Police Chief George B. Hesse, individually and in his official capacity filed on May 29, 2007.

6. Attached hereto and incorporated herein as **Exhibit D** is the Deposition Transcript of Plaintiff, Edward Carter, held on September 16, 2008.

7. Attached hereto and incorporated herein as **Exhibit E** is the Deposition Transcript of Plaintiff, Joseph Nofi, held on September 9, 2008.

8. Attached hereto and incorporated herein as **Exhibit F** is the Deposition Transcript of Plaintiff, Kevin Lamm, held on November 19, 2008.

9. Attached hereto and incorporated herein as **Exhibit G** is the Deposition Transcript of Plaintiff, Thomas Snyder, held on September 24, 2008.

10. Attached hereto and incorporated herein as **Exhibit H** is the Part-time/Seasonal Job Descriptions for Ocean Beach Police Department and Discipline/Charges and Specifications.

11. Attached hereto and incorporated herein as **Exhibit I** is the Response to Plaintiffs' Second Set of Interrogatories, dated August 5, 2009.

12. Attached hereto and incorporated herein as **Exhibit J** is The Schwartz Report Blog in three parts.

13. Attached hereto and incorporated herein as **Exhibit K** is the Collier County Sheriff's Investigator's Report.

14. Attached hereto and incorporated herein as **Exhibit L** is the Deposition Transcript of Plaintiff, Frank Fiorillo, held on February 20, 2009.

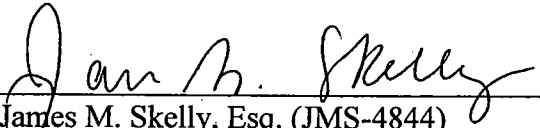
15. Attached hereto and incorporated herein as **Exhibit M** is the Deposition Transcript of Defendant, Joseph Loeffler, held on February 25, 2009.

16. Attached hereto and incorporated herein as **Exhibit N** is the Deposition Transcripts of Defendant, Acting Deputy Police Chief George B. Hesse, held on June 3, 2009; June 16, 2009; August 6, 2009 and August 17, 2009.

17. Attached hereto and incorporated herein as **Exhibit O** is a copy of the October 31, 2006 Letter to Plaintiff Joseph Nofi from Collier County Sheriff's Office; the November 16, 2006 Letter to Plaintiff Joseph Nofi from Collier County Sheriff's Office and the July 7, 2006 Letter to Plaintiff Nofi from Collier County Sheriff's Office.

18. I declare under penalty of perjury that the foregoing is true and correct.

Executed on this 14th day of October, 2009.

  
James M. Skelly, Esq. (JMS-4844)

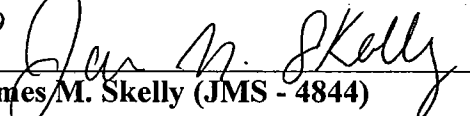
**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that, on October 14, 2009, a true and correct copy of the foregoing **DECLARATION OF JAMES M. SKELLY IN SUPPORT OF DEFENDANT'S MOTION FOR SUMMARY JUDGMENT AND SUPPORTING DOCUMENTS**, was served by First-Class Mail, Postage Prepaid, upon the following:

Andrew Goodstadt, Esq.  
**THOMPSON, WIGDOR & GILLY, LLP**  
Attorneys for Plaintiffs  
**EDWARD CARTER, FRANK FIORILLO,**  
**KEVIN LAMM, JOSEPH NOFI, and THOMAS SNYDER**  
85 Fifth Avenue  
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(212) 239-9292

Kenneth A. Novikoff, Esq.  
**RIVKIN, RADLER LLP**  
Attorneys for Defendants  
**INCORPORATED VILLAGE OF OCEAN BEACH,**  
**MAYOR JOSEPH C. LOEFFLER, JR., individually**  
**and in his official capacity, former mayor**  
**NATALIE K. ROGERS, individually and in her official**  
**capacity and OCEAN BEACH POLICE DEPARTMENT**  
926 Rexcorp Plaza  
Uniondale, New York 11556-0926  
(516) 357-3333

Arlene Zwilling, Esq.  
**COUNTY OF SUFFOLK**  
**County Attorney's Office**  
Attorneys for Defendants  
**SUFFOLK COUNTY POLICE DEPARTMENT,**  
**SUFFOLK COUNTY DEPARTMENT OF CIVIL**  
**SERVICE and ALISON SANCHEZ, individually and in**  
**her official capacity**  
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100 Veterans Memorial Highway  
P.O. Box 6100  
Hauppauge, New York 11788  
(631) 853-4049

  
**James M. Skelly (JMS - 4844)**

**MARKS, O'NEILL, O'BRIEN**  
**& COURTNEY, P.C.**  
Attorneys for Defendant  
**ACTING DEPUTY POLICE CHIEF**  
**GEORGE B. HESSE, individually and in his**  
**official capacity**  
530 Saw Mill River Road  
Elmsford, New York 10523  
(914) 345-3701

Index No. CV 07 1215

RJ1 No.

Hon.

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

EDWARD CARTER, FRANK FIORILLO, KEVIN LAMM, JOSEPH NOFI AND THOMAS SNYDER,

Plaintiffs,

-against-

INCORPORATED VILLAGE OF OCEAN BEACH; MAYOR JOSEPH C. LOEFFLER, JR., individually and in his official capacity;  
former mayor NATALIE K. ROGERS, individually and in her official capacity, OCEAN BEACH POLICE DEPARTMENT;  
ACTING DEPUTY POLICE CHIEF GEORGE B. HESSE, individually and in his official capacity; SUFFOLK COUNTY;  
SUFFOLK COUNTY POLICE DEPARTMENT; SUFFOLK COUNTY DEPARTMENT OF CIVIL SERVICE; and ALISON  
SANCHEZ, individually and in her official capacity,,

Defendants.

**DECLARATION OF JAMES M. SKELLY IN SUPPORT OF DEFENDANT'S  
MOTION FOR SUMMARY JUDGMENT****MARKS, O'NEILL, O'BRIEN & COURTNEY, P.C.**

Attorneys for Defendant

**ACTING DEPUTY POLICE CHIEF GEORGE B. HESSE,****individually and in his official capacity**

Office and Post Office Address, Telephone

530 Saw Mill River Road

Elmsford, New York 10523

(914) 345-3701

To

Signature (Rule 130-1.1-a)

Print name beneath

Attorney(s) for

Service of a copy of the within

is hereby admitted.

Dated,

Attorneys for:

Please take notice

☐ NOTICE OF ENTRYthat the within is a (certified) true copy of a  
duly entered in the office of the clerk of the within named court on☐ NOTICE OF SETTLEMENTthat an order  
settlement to the HON.  
of the within named court, at  
onof which the within is a true copy will be presented for  
one of the judges

at

M

Dated,

Yours, etc.

**MARKS, O'NEILL, O'BRIEN & COURTNEY, P.C.**

Office and Post Office Address

530 Saw Mill River Road

Elmsford, New York 10523

(914) 345-3701